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INFO RUEHZA/WHA CENTRAL AMERICAN COLLECTIVE
RUEHPU/AMEMBASSY PORT AU PRINCE 4430
RUEAIIA/CIA WASHINGTON DC
RHEFDIA/DIA WASHDC
RUMISTA/CDR USSOUTHCOM MIAMI FL

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DEPT FOR WHA/CAR, WHA/OAS, DRL; SOUTHCOM ALSO FOR POLAD,

E.O. 12958: DECL: 01/03/2017

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SUBJECT: DOMINICANS EMBARRASSED, ANGRY ABOUT FAILURE TO
COMPLY WITH OAS HUMAN RIGHTS COURT

(SBU) In November the InterAmerican Human Rights Court slapped down a Dominican request for "interpretation" of its September 2005 verdict obliging the country to compensate two girls of Haitian ancestry and pay compensation to them. The Dominican government has not yet moved to comply, although it accepted the jurisdiction of the court in 1998.

(C) Dominican Foreign Minister Carlos Morales Troncoso has been very touchy of late on the subject of undocumented Haitians resident in the Dominican Republic. He publicly rebuked the U.S. ambassador for a November 22 mention of the need for the country to issue birth certifications; on December 9 he organized a confrontational briefing for U.S. congressmen who had visited miserably poor Haitians living in crowded, crumbling housing associated with bankrupt government-owned sugar plantations; and in December he made public a letter of recriminations he sent to the Robert F. Kennedy Foundation for its human rights award to Dominican-Haitian activist Sonia Pierre. A spokesman for the RFK Foundation professed its (nave) astonishment that Morales Troncoso had made his letter public.

(SBU) This defensive aggression by the Minister is related to the September, 2005 verdict by the Inter-American Human Rights Court (IAHRC) directing the Dominican government to pay compensation to two Dominican-born girls and to apologize publicly for its delay in documenting their births and for leaving them in status equivalent to statelessness. Morales Troncoso had publicly pledged two times to respect the verdict of the IAHRC, the second of these pronouncements in June, 2006 as the Dominicans were hosting the General Assembly of the Organization of American States. Without explanation, the one-year anniversary of the verdict passed with no action.

(SBU) Local papers have covered Morales' blustering but none except the on-line investigative journal Clave Digital (www.clavedigital.com) has told Dominicans that their government has just lost the case all over again. It turns out that on January 5, 2006 the Ministry had filed with the IAHRC a request for interpretation of the verdict, arguing that one of the girls had no proof she was born in the country and casting doubt on the parentage of the other. In addition, the government argued that officials who had proposed an "amicable settlement" when delivering citizenship papers in 2002 were no longer bound to recognize those papers, since the plaintiffs had continued the case.

(SBU) This was begging the question in grand scale, and the Court would have none of it. In their unanimous decision of

November 23, the six judges refused the Dominican request, replying that "a request for the interpretation of a sentence should not be used as a means of questioning that sentence. . . (and) cannot request the modification or cancellation of the verdict." Court spokesman Arturo Monge told Associated Press that the original verdict of 2005 would not be modified in any respect. So the government still has to pay and still has to apologize.

(C) This leaves the Dominican government embarrassed, non-compliant with its obligations under the Inter-American Convention on Human Rights, and with no further avenue of appeal, since the IAHR is the final authority. Meanwhile, President Fernandez's project of debate on reforming the Constitution goes forward, with every prospect of modifying the articles granting citizenship to all born in the country except for offspring of diplomats and of transients (a category broadly defined by the Supreme Court in November 2005 to include anyone resident without permission). A constitutional fix may eventually serve Dominican indignation but since the Constitution directs that no disposition may be retroactive, any change will still leave hundreds of thousands of individuals undocumented, unacknowledged, and functionally stateless.

HERTELL